

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Samuel Bufter	Team: Team # 1	CCRB Case #: 200709056	<input checked="" type="checkbox"/> Force <input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> Discourt. <input type="checkbox"/> O.L.	<input type="checkbox"/> U.S. <input type="checkbox"/> Injury
Incident Date(s) Monday, 05/21/2007 1:20 PM	Location of Incident: Putnam Avenue between Irving Avenue & Ridgewood Place		Precinct: 83	18 Mo. SOL 11/21/2008	EO SOL 11/21/2008
Date/Time CV Reported Mon, 06/25/2007 10:03 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Mon, 06/25/2007 10:03 PM		

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Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. CPT Scott Henderson	00000	915880	PBBN
2. POM Jared Santangelo	27105	907263	083 PCT
3. Officers			
4. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DI John Bambury	00000	896988	083 PCT
2. POM Louis Morselli	28587	933064	083 PCT
3. POM Michael Mccready	23365	932995	083 PCT
4. CPT Terence Mcmanus	00000	913675	PBBN
5. LT John Tennant	00000	913269	075 DET
6. SGT Sean Mccarthy	01878	904505	083 PCT
7. SGT John Drouin	00451	906154	083 DET
8. SGT Tommy Korakis	04009	897812	GANG BN
9. POM Joseph Riso	30085	933255	083 PCT
10. POM Edward Paszel	11209	918129	083 PCT

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Abuse: Officers drew their guns.	
B. Officers	Discourtesy: Officers spoke obscenely and/or rudely to § 87(2)(b) and individuals.	
C. An officer	Force: An officer tightly handcuffed § 87(2)(b)	
D.CPT Scott Henderson	Abuse: Cpt. Scott Henderson authorized the arrests of § 87(2)(b) and individuals.	
E.POM Jared Santangelo	Discourtesy: PO Jared Santangelo spoke obscenely and/or rudely to § 87(2)(b)	

## Synopsis

On May 21, 2007, a group of at least 33 individuals, most of whom were teenagers, met at Putnam Park (also known as Bushwick Park) in Brooklyn at approximately 1:00pm. Amongst the members of this group were § 87(2)(b) and § 87(2)(b) all of whom provided formal statements to the CCRB. The group had planned to meet up at the park and then walk to the Wyckoff Avenue L/M train station en route to § 87(2)(b) in Coney Island. § 87(2)(b) whose nickname was “§ 87(2)(b)” was shot to death on § 87(2)(b). The group met at the park, where various members including § 87(2)(b) and § 87(2)(b) wore t-shirts depicting § 87(2)(b) likeness under the words “R.I.P § 87(2)(b) or “§ 87(2)(b). Members of the group, including individuals in the shirts, took photographs by a park mural that commemorated § 87(2)(b).

At approximately 1:15pm, the group departed the park and walked down Putnam Avenue on the sidewalk. At the intersection of Putnam Avenue and Irving Avenue, some members of the group first noticed an unmarked police car that slowly drove past them. When the group was towards the middle of the block on Putnam Avenue between Irving Avenue and Ridgewood Place, numerous police vehicles, including an indeterminate number of marked and unmarked vans and patrol cars, pulled up the street and stopped their vehicles. According to NYPD documentation, numerous officers were present under the authority of Cpt. Scott Henderson of the 83<sup>rd</sup> Precinct. At least a dozen officers exited their vehicles and approached. Several officers instructed the entire group to stop and § 87(2)(b) and § 87(2)(b) alleged that several unidentified officers had their guns drawn (*allegation A*). The officers instructed the members of the group to get against the gates and walls by the sidewalk. § 87(2)(b) and § 87(2)(b) alleged that officers used profanity and stated, “Get the fuck against the wall,” at this point in time (*allegation B*). The officers frisked and searched most of the individuals in the group. § 87(2)(b) alleged that an officer named PO § 87(2)(b) frisked him and instructed him to get to the ground. § 87(2)(b) § 87(2)(b) alleged that he was searched by an unidentified officer and then placed in handcuffs. When he complained that the handcuffs were too tight, the officer allegedly further tightened them (*allegation C*). Cpt. Henderson authorized the arrests of each member of the group (*allegation D*). The arrests were assigned to Officers Michael McCready, Edward Paszel, Jared Santangelo, Joseph Riso, Louis Morselli and Edward Laporte, all of the 83<sup>rd</sup> Precinct.

The group members were placed in prisoner vans and transported to the 83<sup>rd</sup> Precinct stationhouse. Seven arrestees who were identified as juveniles were released without charge to their parents or guardians. Additionally, six females were released with summonses for § 87(2)(b). The remaining twenty males, who were older than 16 years of age, were separately taken into a room where members of the 83<sup>rd</sup> Precinct Detective Squad and the Brooklyn North Gang Division interrogated them. Each individual was questioned about his own possible involvement in gang activity and asked to provide any information that they had regarding § 87(2)(b) with which § 87(2)(b) was supposedly involved. During his interrogation, § 87(2)(b) told his arresting officer, PO Jared Santangelo that the officers would get in trouble for the arrests. PO Santangelo allegedly responded, “Oh, who the fuck is ya’ll? No one cares about ya’ll” (*allegation E*). Ultimately, the arrestees were removed to Brooklyn Central Booking and were charged with § 87(2)(b).

This complaint was initially filed by § 87(2)(b) who was retained as a civil attorney by the families of § 87(2)(b) and § 87(2)(b). He filed his complaint via the agency’s online website on June 25, 2007. § 87(2)(b) also filed a complaint regarding this incident under CCRB case number § 87(2)(b) on June 28, 2007. This complaint was closed as a duplicate, though information from it was incorporated into the case file for 200709056. § 87(2)(g)

The aforementioned seven individuals were interviewed by the CCRB in July and August 2007. The undersigned attempted to schedule several officers including Cpt. Henderson, PO Riso and Deputy Inspector John Bambury, who drafted a UF-49 regarding the incident. However, on October 9, 2007, ADA Deanna Rodriguez, of the Brooklyn District Attorney’s Office Rackets Division, contacted Acting

Executive Director Eric Dorsch and requested that the Civilian Complaint Review Board cease to conduct investigative work until the criminal charges against the defendants had been resolved. On October 18, 2007, Team 1 Supervisor of Investigators Samuel Bufter contacted ADA Rodriguez, who confirmed that the District Attorney's Office sought an investigative hold under which the CCRB would not contact or interview any civilians or officers until further notice. The agency agreed to honor this request and a formal letter requesting the hold was received by the agency on October 23, 2007. § 87(2)(g)

§ 87(2)(g)

### Summary of Complaint

§ 87(2)(b) at § 87(2)(b) old male black, § 87(2)(b) was interviewed at the CCRB on July 16, 2007 (encl. 12). His attorney, § 87(2)(b) as well as his father, § 87(2)(b) was present for the interview.

On May 21, 2007, § 87(2)(b) met up with several of his friends at Putnam Park (a.k.a Bushwick Park) near Knickerbocker Avenue in Brooklyn. They intended to meet up and walk to the Myrtle/Wyckoff J-train station to attend § 87(2)(b) (or § 87(2)(b) in Coney Island.<sup>1</sup> Prior to arriving at the park by himself, § 87(2)(b) had been at his residence at § 87(2)(b). He called his parents to let them know that he was on his way to the park. Once there, between 10 and 15 people were present and hanging out near the handball courts. Additional people, including § 87(2)(b) and § 87(2)(b) arrived at the park. § 87(2)(b)'s brother, as well as many other females, were also present, but he could not recall the names of these persons. Many members of the group, including § 87(2)(b) wore t-shirts bearing a likeness of § 87(2)(b). The group assembled at the park and remained for 25 minutes before leaving and walking down Putnam Avenue.

After about five minutes, when the group arrived at Irving Avenue, § 87(2)(b) observed an unmarked black "detective car" double-parked at the corner. § 87(2)(b) identified the car as an NYPD vehicle because it had many antennae. Two uniformed officers were seated in the vehicle. Neither § 87(2)(b) nor his friends made any comments towards the officers, nor did anyone say anything to each other about the officers. Initially, the group paid little attention to the vehicle and continued walking. No one smoked any cigarettes nor brandished or held any weapons. As they reached the middle of the block, numerous police vehicles, including 12 marked patrol cars and vans and one black van, simultaneously "swarmed in" though the black car remained parked. § 87(2)(b) estimated that at least 38 officers responded because there were 38 civilians in the group and there was a ratio of at least one officer per civilian. All of the officers were in uniform. The officers told the group to get against the gate. Everyone complied and "nobody did anything stupid."

§ 87(2)(b) identified PO1 (male white/muscular/short black hair/5'11") as the officer who exited from a marked patrol car and initially spoke to the group. Through the passenger window of his vehicle he stated, "Stop. Stop." Everyone in the group complied with PO1's order and nobody ran or said anything back to the officers. PO1 said nothing further. Two unidentified adults had been walking with the group since they

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<sup>1</sup> § 87(2)(b) had been a friend of § 87(2)(b), who was murdered § 87(2)(b).

departed from Putnam Park and the officers advised these two adults to move to the other side of the street. § 87(2)(b) stated that the officers asked where the group was heading and members of the group responded that they were heading towards the train station to attend a wake. The officers told them to wait and stay put. One officer, whom § 87(2)(b) identified as PO "Anderson," specifically interacted directly with him and told § 87(2)(b) to get against the gate. § 87(2)(b) complied by backing up. § 87(2)(b) identified PO Anderson by looking at his badge. PO § 87(2)(b) told § 87(2)(b) to turn around and asked whether § 87(2)(b) had anything on him that he was not supposed to have. § 87(2)(b) complied and kept his hands to the side. PO § 87(2)(b) "tapped" on top of § 87(2)(b)'s front and back pants pockets. He did not pat § 87(2)(b) anywhere else nor did he enter § 87(2)(b)'s pockets. § 87(2)(b) informed PO Anderson that § 87(2)(b) and PO Anderson responded, "We'll see when we get to the precinct." PO Anderson and § 87(2)(b) said nothing further to each other. § 87(2)(b) provided his ID to PO Anderson, who placed him in metal handcuffs. § 87(2)(b) did not move his arms and let PO Anderson apply the cuffs. PO Joseph Riso, identified by the name on his badge, came up and spoke to PO Anderson though he did not speak to § 87(2)(b). Officers told the group to stand still and § 87(2)(b) stood by a gate, facing towards the street while handcuffed. PO Anderson walked to his car.

§ 87(2)(b) did not see any officers in white shirts. He observed the officers handcuff other members of the group. Eventually the officers ran out of metal handcuffs, so they began to use the "clear straps." § 87(2)(b) was next to his friend, § 87(2)(b) and an unidentified person, both of whom were handcuffed. When asked whether he ever saw anyone placed onto the ground, § 87(2)(b) stated that he observed one individual, who was about four persons to his right-hand side, who was placed on the ground. This person told the officer that he did not want the officer's hand in his pocket. The officer asked why and the individual said that he could get out his ID on his own, but the officer did not want this and placed him on the ground. Other than this individual, no civilian argued with an officer or raised his/her voice at any time. Several people who lived on the block exited their residences and asked, "Why (sic) are you all arresting the young boys for? They're only going to § 87(2)(b)." § 87(2)(b)

Officers said that they would take the group members to the precinct to determine what was going on and would then let the group members go. § 87(2)(b) was placed in a marked patrol car with two other kids who went to § 87(2)(b). PO Anderson drove the vehicle to the precinct and no other officers were inside the vehicle. En route to the precinct, no officer spoke to § 87(2)(b). At the precinct, all 38 civilians were placed in a small room. Within 10-15 minutes, members of the group were separately removed from the room. § 87(2)(b) was taken to another room around the corner, where he spoke to two unidentified officers, PO4 (male white/muscular/black baseball hat/black t-shirt) and PO5 (male white/short black hair/skinny/grey t-shirt). These officers asked § 87(2)(b) if he knew what happened to § 87(2)(b) and § 87(2)(b) replied that § 87(2)(b) had been shot. They showed several pictures of different individuals to § 87(2)(b) and asked if he recognized any of them. § 87(2)(b) did not recognize them. Upon direct questioning from the CCRB, § 87(2)(b) denied that § 87(2)(b) had been involved in any gang activity. He was unaware of whether any of his friends in the group were involved in or had been arrested for gang activity. He was also unaware of any planned retribution by any person regarding § 87(2)(b) murder.

The officers informed the group that all members under the age of 16, as well as most females, would be permitted to leave. They placed all non-juveniles in the holding cells. § 87(2)(f)

## **Results of Investigation**

### **Civilian Victims**

§ 87(2)(b)

§ 87(2)(b) a male black, was interviewed at the CCRB on July 16, 2007 (encl. 14). At the time of the interview, § 87(2)(b) was a § 87(2)(b) -old, 120lb. student. His attorney, § 87(2)(b) as well as his mother, § 87(2)(b) were present during his interview.

§ 87(2)(g)

§ 87(2)(b) He noted that four uniformed male officers got out of one of the cars with their guns drawn. One of the officers from a black taxi-like car was sitting on his vehicle. He also had his gun out. A male officer with a loud voice whom § 87(2)(b) did not see said, "Get the fuck on the wall." Helicopters were also present. A female officer grabbed § 87(2)(b)'s arms, put him against the wall, and ordered him to take off his book bag. He was already halfway against the wall – a gate to a house -- and was still on Putnam Avenue between Irving Avenue and Ridgewood Place. He slid off his book bag. An officer told him to leave his hands where they were. Five minutes after he was put against the wall, he was handcuffed. § 87(2)(b) did not remember who was next to him. He looked straight ahead at the wall, not moving his arms or legs. At some point, officers told the group that they were lucky to have been picked up, since the police had intercepted a text-message saying that anyone wearing a shirt with § 87(2)(b) picture on it would be shot. The officers were armed with guns and "black sticks." Several of the officers had their guns out and pointed up in the air.

§ 87(2)(b)

§ 87(2)(b) was interviewed at the CCRB on July 16, 2007 in the presence of his attorney, § 87(2)(b) and his father, § 87(2)(b) (encl. 13). At the time of his interview, § 87(2)(b) was a § 87(2)(b) year-old, § 87(2)(b)

§ 87(2)(g)

§ 87(2)(b) At Putnam Park, some people took pictures of each other wearing the shirts with § 87(2)(b) likeness. The group walked up on the sidewalk of Putnam Avenue towards the Wyckoff Avenue station quietly. No one brandished a weapon or had drugs out.

Once the vehicles stopped and officers exited their vehicles and approached the group, a uniformed tall, bald male white officer instructed the group, "Get on the wall right now." § 87(2)(b) explained to the officers that the people in the group were merely going to § 87(2)(b). The officer responded, "So what? Get on the wall." The group proceed to walk and ignore the officers' directions, at which point the officers grabbed them. Some individuals stated, "Don't touch us. We're going to the thing."

§ 87(2)(b) was grabbed by the right shoulder by a bald officer, and was moved against the wall. When the officer reached for his pocket, § 87(2)(b) smacked the officer's hand away and stated, "You can't do that." An officer asked him what he had in his hand. § 87(2)(b) placed his phone in his pocket, and stated that he had a cell phone. Once § 87(2)(b) refused to get on the wall, a crowd of officers surrounded him. § 87(2)(b) was positioned facing the gate with both of his hands being grabbed by an officer who was attempting to place him in handcuffs. When the officer attempted to grab his hands, § 87(2)(b) moved them away and refused to allow the officer to cuff him. Two officers then grabbed hold of § 87(2)(b)'s arms, placed him in handcuffs, and then placed him on the ground, at which point an officer immediately began to search him. § 87(2)(b) protested that his handcuffs were too tight, an officer stated, "Oh, that's too tight?" and then pinched the cuff one notch tighter. When some group members refused to get against the wall, an officer began to curse and use profanity. The officer began to use the words "fucking" and "ass."

The officers attempted to place all of the individuals against the ground, but several individuals refused to comply. Most of the officers' energies were spent on the older male individuals at the scene. § 87(2)(b) stated that he did not see any officers push any civilians with force, but rather that they used their hands to guide the individuals. § 87(2)(b) had bruises on his hand as a result of the handcuffs. He did not seek any medical treatment, though he showed these injuries to his mother.

§ 87(2)(b)

§ 87(2)(b) a § 87(2)(b) - old male black, was interviewed inside his apartment at § 87(2)(b) on July 17, 2007 (encl. 15).

§ 87(2)(g)

§ 87(2)(b) stated that “all” of the officers used “a lot” of profanity. Specifically, officers said, “Get the fuck on the floor,” when they directed the group to sit down after they were placed in cuffs. He initially claimed that this was one officer whom he could not describe and later stated that multiple officers used profanity.

§ 87(2)(b)

§ 87(2)(b) an § 87(2)(b)-old resident of § 87(2)(b), provided a statement in front of his residence on July 17, 2007 (encl. 17).

§ 87(2)(g)

The officer closest to § 87(2)(b) and with whom he interacted had a red, white, and blue eagle tattoo, from his bicep to the middle of his forearm. This officer was a white male dressed in uniform, 5’8” to 5’9” tall, with dark blonde spiky hair and a stocky build. Officers immediately ordered the crowd to “Get the fuck on the wall,” and to “Get on the floor” as they exited their vehicles. The officers were very aggressive and cursed repeatedly as soon as they interacted with the group. They ordered the males in the group to stand against the wall or get on the ground, depending on their position, and handcuffed all of the males. § 87(2)(b) said that officers had guns drawn when handcuffing the males, closer to Irving Avenue, but that he was positioned closer to the females, near Ridgewood Place, and did not see these officers’ faces. § 87(2)(b) said that the males being detained immediately dropped to the ground when the guns were drawn. § 87(2)(b) stated that, after the members of the group had been handcuffed, one officer drove him to the stationhouse and made several derogatory comments about the group as he drove, such as “We should have gotten a school bus to carry these ignorant kids,” and “We only got thirty? Let’s go to § 87(2)(b) and pick up some more”.

§ 87(2)(b)

§ 87(2)(b) said that he was not wearing a shirt marked “§ 87(2)(b)” during the incident, which had been mentioned during a media interview that occurred after the fact. § 87(2)(b) said that the shirt is a commercially available design that has no gang connotations. § 87(2)(b) stated that no one present for the incident was dressed in clothing with any gang associations.

§ 87(2)(b)

§ 87(2)(b) was interviewed at § 87(2)(b) on July 17, 2007. § 87(2)(b) of § 87(2)(b) is a § 87(2)(b)-old black male (encl. 16).

§ 87(2)(b)

§ 87(2)(b)’s statement was consistent with § 87(2)(b) with the following exceptions and additions. One the date of occurrence, § 87(2)(b) wore an Ed Hardy sweater. A white male with a buzz cut drew his gun and stated, “Everybody get the fuck against the wall.” His gun was pointed towards the ground and was parallel with his leg. He said, “Shut up. Don’t talk.”

Curious about what was happening, several older people exited their homes on Putnam Avenue to observe the situation and determine what happened. An individual was video taping the incident. Several of these people also asked the officers why they were arresting the young people, and the officers told them to “shut up.”

At the precinct officers including PO “Martinez,” questioned § 87(2)(b) about gangs, and accused him of knowing about them and being a gang member in § 87(2)(b).

§ 87(2)(b)

§ 87(2)(b) told an officer, whom he believed was named “Santiago,” that many individuals, such as the young people’s parents, were going to be angry that officers arrested a large number of young people for no reason. He explained that the officers were going to get into trouble for what happened. PO Santiago replied, “Oh, who the fuck is ya’ll. No one cares about ya’ll.” § 87(2)(b) believed that the officer’s name was Santiago because that was the name that was provided on his voucher. He also stated that this was the officer who fingerprinted him, during which time he asked for his name, which he provided. PO Santiago was approximately 5’8” tall, short hair, Hispanic, dark complexion, and had an average build.

### Civilian Witnesses

§ 87(2)(b)

§ 87(2)(b) a § 87(2)(b) -old female black, was interviewed at her apartment on the § 87(2)(b) on July 17, 2007 (encl. 18).

On May 21, 2007, § 87(2)(b) was sitting on her steps immediately in front of the front door to her building.<sup>2</sup> At approximately 1:20pm she observed several children that she knew from the neighborhood walking down the block on the opposite side of the street en route to § 87(2)(b). The group numbered at least fifteen members. They were wearing t-shirts bearing an image of the person who had passed away, known to the CCRB as § 87(2)(b). The back of the shirts had messages that stated, "RIP, § 87(2)(b)". When asked whether she could hear the group, § 87(2)(b) responded, "No they were just walking down the block. But they were walking in a group... They were all on the sidewalk. None of them were in the street."

§ 87(2)(b) stated that there was initially one marked patrol van that arrived and that two additional vans came followed by two additional marked patrol cars. The officers stopped the group of youths. The first officers exited their vehicle and two of them told the group to stop and get against the gate. Once the first officers exited their vehicles, § 87(2)(b) went to the bottom of her steps. Several members of the group asked why they had to get against the gate and why they were being stopped. They also claimed that they were just going to § 87(2)(b). § 87(2)(b) stated that their voices were raised when they spoke to the officers. The officers responded that something had happened in the park and reiterated that the youths had to stop. They told the kids to sit down and they said that they had to take them to the precinct. The youths sat down near the stoops of several buildings across the street from § 87(2)(b) § 87(2)(b).

§ 87(2)(b) No member of the group tried to run. One officer who was present by this point was a supervisor, a white male in his forties who wore a white shirt.

Up through this point, § 87(2)(b) did not hear any officers or any members of the group use profanity. More officers responded and after about 20 minutes they began to place the members of the group in handcuffs. § 87(2)(b) stated that there was no physical struggle between any officers and civilians to apply the handcuffs except for one girl. When asked to articulate, § 87(2)(b) explained that several people "shushed" this girl, who was being rude and loud. One officer said, "If you don't be quiet..." but § 87(2)(b) could not hear how this statement ended. A second officer came over and told the girl to calm down; he assured her that the officers just wanted to take her to the precinct to get things settled. She eventually calmed down. § 87(2)(b) did not actually see an officer place handcuffs on her. The officers also placed handcuffs on a gentleman who lives on Putnam Avenue near § 87(2)(b) and who was circumstantially passing down the block independent of the group that was initially stopped.<sup>3</sup> He was not with the group but just happened to be walking the same direction as them at the same time. There were also two other unidentified male blacks who crossed the street to the same side as where the group was just before the officers stopped them. They, too, were stopped and arrested. A male Hispanic officer placed them in a separate patrol van from the rest of the group.

Several parents of the children arrived after the officers placed the children in handcuffs and told the officers that they had given the children permission to attend § 87(2)(b). § 87(2)(b) estimated that approximately five parents responded in total. Some asked why their children had been arrested. One officer said that they were conducting "a sweep." § 87(2)(b) did not hear any further conversation. More

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<sup>2</sup> § 87(2)(b)

<sup>3</sup> § 87(2)(b)



officers responded. After the officers put plastic cuffs on each child, they placed the kids in police vehicles and transported them from the incident location. The parents then proceeded to walk towards the precinct.

§ 87(2)(b)  
§ 87(2)(b) was interviewed at her home at § 87(2)(b) on July 17, 2007 (encl. 19). § 87(2)(b)  
is a § 87(2)(b) old black female and is the mother of § 87(2)(b)

On May 21, 2007, at approximately 1:20 PM, § 87(2)(b) was with her husband, § 87(2)(b) her son, § 87(2)(b) her daughter, and nieces, as well as several of their friends at Putnam Park, near Bushwick High School. § 87(2)(b) stated that there were a lot of other adults present at the park, but she did not know their names. The remainder of her statement regarding the group's presence at the park was consistent with § 87(2)(b). She left the park before the group began marching towards the train station.

§ 87(2)(b) went back to her home with her husband, which was only a few blocks from the park, and returned to meet the group as they walked to the subway station with her husband. While walking, § 87(2)(b) saw that police officers were "coming from everywhere."

Upon getting to the corner of Putnam Avenue and Knickerbocker Avenue, approximately twenty minutes from the time she left the park, § 87(2)(b) looked up the block and saw a very large collection of police officers as well as the young people. She ran up Putnam Avenue towards the police officers, as did § 87(2)(b). At Putnam Avenue and Irving Place, § 87(2)(b) saw that all of the young people were in handcuffs. She stated that approximately half of the young people were sitting on the ground on the sidewalk. Multiple young people were being transported into the prisoner van. § 87(2)(b) was already inside the NYPD truck at the time § 87(2)(b) arrived. Several of the young people were asking the officers repeatedly, "What are you locking us up for? Why are the handcuffs on us?" As § 87(2)(b) approached she spoke to the first officer she saw and asked what was happening, to which the officer responded, "Back up," and also told her to meet them at the 83<sup>rd</sup> Precinct. Multiple officers told § 87(2)(b) that they would lock her up if she did not back away from the group.

§ 87(2)(b) then saw an officer wearing a white shirt who she suspected was a captain, and approached him. This officer was a well-built, stocky, 6'2" black male officer of an unknown height. The officer told § 87(2)(b) that the officers were going to take the young people in, for everyone's safety, because he received a call that there was going to be a riot at § 87(2)(b). The officer stated that the situation was gang related. § 87(2)(b) was looking for § 87(2)(b)'s daughter during this incident. § 87(2)(b) learned after the fact, that her daughter went inside a store in order to get bubble gum, and when she returned she saw that the police stopped all of the young people.

#### **Attempts to obtain additional civilian statements**

Between July 15, 2007 and August 13, 2007 several letters were sent and calls were made to individuals that were arrested during the incident. Additional attempts could not be made. On October 18, 2007, ADA Deanna Rodriguez, of the Brooklyn District Attorney's Office Rackets Division, contacted Acting Executive Director Eric Dorsch and requested that the CCRB cease to conduct investigative work until the criminal trials of the defendants had been resolved. On October 21, 2007, Team 1 Supervisor of Investigators Samuel Butfer contacted ADA Rodriguez and learned that the District Attorney's Office sought an investigative hold under which the CCRB would not contact or interview any civilians or officers until further notice. § 87(2)(g)

#### **Officer Statements**

##### **Deputy Inspector John Bambury**

DI Bambury was interviewed at the CCRB on June 10, 2009 (encl. 21C-F). On May 21, 2007, DI Bambury was the C.O. of the 83<sup>rd</sup> Precinct. He worked from 9:00am until 5:00pm and wore plainclothes. Due to his rank he does not carry a memo book.

### ***Unusual Occurrence Report***

The report noted that members of the 83<sup>rd</sup> Precinct arrested twenty-four males and nine females for unlawful assembly and disorderly conduct (encl. 21A-B). § 87(2)(e), § 87(2)(f)

[REDACTED]

The UF-49 noted that at 1:20pm on May 21, 2007 a large group of individuals, many of whom wore clothing which identified them as associates of § 87(2)(b) was spotted in Bushwick Playground. Some members of this group also were observed gathering near a handball wall, which had a mural and gang graffiti painted on it. The group traveled en masse towards Wyckoff Avenue and officers under the supervision of Cpt. Scott Henderson, 83<sup>rd</sup> Precinct, placed the group under arrest. Officers from the 83<sup>rd</sup> Precinct, Gang Division 83<sup>rd</sup> Precinct Detective Squad and Brooklyn North Task Force assisted in the operation. All persons that were arrested were debriefed by members of the Gang Division and the 83<sup>rd</sup> Precinct Detective Squad.

### ***CCRB Statement***

§ 87(2)(e), § 87(2)(f)

[REDACTED]

On May 21, 2007, § 87(2)(b) wake was scheduled to take place in Coney Island, where a significant amount of officers from the Brooklyn South Gang Squad, 60<sup>th</sup> Precinct and Transit Division were deployed to handle any potential problems. § 87(2)(e), § 87(2)(f)

[REDACTED]

§ 87(2)(e), § 87(2)(f)

[REDACTED]

§ 87(2)(e), § 87(2)(f)

[REDACTED]

DI Bambury put together a plan to handle the situation. He contacted the local transit district commander, Cpt. Leary, as well as the Patrol Borough, and asked them to put the Brooklyn North Task Force on standby. He instructed Cpt. Henderson and the SNEU team to go around the precinct and survey the area to see if anything unusual was going on. At approximately 1:00pm, Cpt. Henderson called DI Bambury and said that there was a group of approximately 15 people congregating at a park in the vicinity of Putnam Avenue between Knickerbocker and Irving Avenues. He observed individuals crowded around a mural

wearing red and blue bandanas and flashing hand signals, which were indicative of gang affiliation. People that had been in the park upon the group's arrival left in a hurry. DI Bambury advised Cpt. Henderson to remain and monitor the situation while (DI Bambury) notified Task Force to respond.

DI Bambury spoke to PO Hamill and notified Sgt. McCarthy, the SNEU supervisor. He also spoke to Lt. Tenant, and informed him that he should have a few people respond so that they could speak with the civilians and obtain information on § 87(2)(b) shooters since some of them were still at large. DI Bambury launched a level-I mobilization, in which the Patrol Borough Task Force is activated. Within 4-5 minutes of speaking to Cpt. Henderson, DI Bambury got into a car with PO Hamill, who began to drive him to Putnam Avenue. As DI Bambury began responding to the scene, Cpt. Henderson called. His voice was excited and DI Bambury heard noise in the background. Cpt. Henderson explained that the group was marching out of the park and in the street. Some members were jumping on top of cars as the group proceeded down Putnam Avenue towards Irving Avenue and Wyckoff Street.

At Putnam Avenue between Knickerbocker Avenue and Irving Avenue, PO Hamill stopped the car and DI Bambury exited. On his left-hand side he saw three male teenagers wearing sweatshirts and bandanas on their heads running down Putnam Avenue, very quickly away from the officers. DI Bambury's initial reaction was to run after the group, but when he looked down Putnam Avenue he saw a group of about 50 people, most of whom were teenagers, in the street between Irving Avenue and Wyckoff Street. None of them were yet handcuffed. DI Bambury did not observe any persons on top of cars. He could see Cpt. Henderson and several other police officers in both plainclothes and uniform; he was 200 yards away so he could not entirely see what was going on as he approached the scene. When he arrived near the corner of Putnam Avenue and Irving Place, he saw a few individuals from the larger group run away upon seeing the police. A few cops tried to push another group to the sidewalk. DI Bambury then saw Cpt. Henderson on Putnam Avenue trying to stop the group. About half of the group of civilians were stopped, meaning that some officers were in front of them and telling the group to get onto the sidewalk, and a second group marched down and were pursued by 4-5 officers.

As DI Bambury drew closer he saw the back of an officer and three civilians pointing towards him and yelling. One of these civilians was § 87(2)(b) who DI Bambury knew from prior robbery arrests, and who was affiliated with § 87(2)(b). § 87(2)(b) and § 87(2)(b) stood next to § 87(2)(b). They are known as being involved in marijuana sales on Hancock Street. § 87(2)(b) bit an officer about a year prior to the incident in question. The rest of the civilians were "milling about" in the street while some members ran away, but there were not enough officers to stop them. DI Bambury instructed the officers to get the civilians up on the sidewalk and arrest them. DI Bambury followed a second group of individuals that had walked towards Wyckoff Street; three kids ran off southbound on Wyckoff Street, but were pursued and apprehended by officers, who told them to go on the sidewalk. They tried to go back to Irving Avenue and then back to Wyckoff Street, but they were unsuccessful since cops were on both streets. One of the members of this group, § 87(2)(b) refused to get to the sidewalk. § 87(2)(b) and § 87(2)(b), all of whom DI Bambury knew as drug dealers, were also members of this group. DI Bambury directed this group to be directed onto the sidewalk to be arrested because they had refused the officers' orders to get onto the sidewalk and were blocking traffic by hanging out in the street. Neither of these individuals attempted to flee from the location. As time progressed, more officers responded and the police were therefore able to apprehend the group by placing them on the sidewalk and handcuffing them. Thereafter, the group was transported to the stationhouse.

The individuals were arrested for unlawful assembly and disorderly conduct. When asked to describe the unlawful assembly statute, DI Bambury stated that it occurs when a group of five or more people acts disorderly. When asked why the individuals were arrested for this specific offense, he responded that the individuals had jumped on cars, walked down the street in a loud, boisterous disorderly manner, blocking traffic and refusing directions from responding police officers who instructed them to get on the sidewalk. Of these aforementioned reasons, DI Bambury only personally observed the civilians refuse the officers' orders to get on the sidewalk; Cpt. Henderson reported the remainder of these details to DI Bambury.

The individuals were transported to the 83<sup>rd</sup> Precinct stationhouse where they were each debriefed by officers from the Brooklyn North Gang Squad and the 83<sup>rd</sup> Precinct Detective Squad. DI Bambury was

unaware of any officer having an eagle tattoo. The females were released with C-summons for disorderly conduct because they were cooperative during the debriefing and less culpable for the group's actions at Putnam Avenue, where they were more responsive to the officers' orders to get on the sidewalk.

DI Bambury never heard any officer use the word "fuck" while at the scene of the arrests. He never placed any individuals in handcuffs.

### **Captain Scott Henderson**

*Cpt. Henderson was interviewed at the CCRB on June 24, 2009 (encl. 22). On May 21, 2007, Cpt. Henderson was assigned to the 83<sup>rd</sup> Precinct and worked as the C.O. of Patrol Borough Brooklyn North from 7:00am until 3:00pm. Cpt. Henderson worked alone and was dressed in uniform (white shirt). He was assigned to a burgundy Pontiac with no operator.*

§ 87(2)(g)

DI Bambury identified one of the possible locations where violence would occur as Putnam Park, and asked that Cpt. Henderson report anything unusual to him. At about noon, Cpt. Henderson arrived at Putnam Park, where he saw a large group congregating and acting disorderly. Cpt. Henderson remained in his vehicle across the street from the park and observed about 20 individuals in the park when he first arrived. They were in the rear of the park by the handball courts, near a mural of § 87(2)(b), the § 87(2)(b). They were standing on benches and, as other people came up to the group, they were greeted with hand gestures indicative of gang signals. As the group got larger, they were getting louder, though Cpt. Henderson was too far away to hear what specifically was being said. He could not estimate how many of the individuals were being loud. Some other individuals who were unaffiliated with the group were playing basketball, but they left because it seemed like they were feeling intimidated by the group that was preparing to go to § 87(2)(b) because these unaffiliated persons were looking over at the group and stopped playing basketball and left. An elderly female was present and began speaking to an elderly Hispanic male. The female motioned towards the group while speaking to the Hispanic male; the Hispanic male then motioned to the female while looking at Cpt. Henderson. When asked whether he made any other observations of the group, Cpt. Henderson stated that he did not. He remained parked in his car by the park for about an hour.

Cpt. Henderson called DI Bambury on his cell phone and told him that he was at the park and had observed the group congregating. DI Bambury said that he'd be on his way over to the park and that he'd have additional officers respond. As Cpt. Henderson waited for DI Bambury, the group got larger. Suddenly, one male, whom Cpt. Henderson could not identify, came into the park and said something. The group then left the park in a very quick manner, obstructing pedestrian and vehicular traffic. The group members exited onto the sidewalks and the streets, specifically meaning the middle of the roadway on Putnam Avenue. Other civilians that were not affiliated with the group were on the sidewalk. They reacted by moving away from the group. When asked how the group blocked pedestrian traffic, Cpt. Henderson replied, "They were walking as a group, abreast to each other, so that no one could get around them." When asked whether any civilians attempted to walk around them, Cpt. Henderson said, "Nobody that was walking in the street just stopped and let (the group) go by." Vehicles also stopped in the middle of the street so as not to strike the members of the group that were in the street. By this point, the group numbered approximately 20 people in the street and 30 on the sidewalk. At Putnam Avenue between Knickerbocker Avenue and Irving Avenue, three members of the group were also walking on the bumpers of parked vehicles; they would walk onto and then off of the bumpers.

Almost simultaneous to the point that the group members exited the park, Cpt. Henderson called DI Bambury again<sup>4</sup> and said that he needed help because the crowd was so large that Cpt. Henderson could not do anything but observe. DI Bambury stated that he was one block away and advised Cpt. Henderson to call on the radio if he needed help. Cpt. Henderson drove to the intersection of Putnam and Irving Avenues, where he met with DI Bambury.

Cpt. Henderson's statement regarding the arrests was consistent with DI Bambury.

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<sup>4</sup> He estimated that this was about 30 minutes after his first call to DI Bambury.

When asked whether the decision to make the arrests was his, Cpt. Henderson responded that the officers did not initially arrest anyone; rather they brought the civilians back to the stationhouse to identify them and to conduct a thorough search due to the fact that a large crowd was stopped and other people were coming onto the scene. When noted that the civilians were handcuffed and transported in vehicles to the stationhouse and asked whether Cpt. Henderson meant that the civilians were not under arrest at that point, Cpt. Henderson responded that they were, in fact, under arrest for disorderly conduct. When asked again, Cpt. Henderson stated that both he and DI Bambury were responsible for the authorization to arrest the individuals. When asked what actions constituted the disorderly conduct, Cpt. Henderson stated that the civilians were obstructing pedestrian and vehicular traffic, and that he personally observed every person that was later arrested commit this offense.

At the stationhouse, Cpt. Henderson, DI Bambury and Lt. Tenant called the DA's office to inform them of what had happened. Specifically, DI Bambury called and spoke to Deanna Rodriguez from the DA's Gang Division. She advised them to charge the individuals with unlawful assembly in addition to disorderly conduct. Prior to this conversation, there had not been any discussion of charging the civilians with unlawful assembly.

**Sgt. Sean McCarthy; PO Joseph Riso; PO Michael McCready; PO Jared Santangelo**

Sgt. McCarthy, PO Riso and PO McCready were interviewed at the CCRB respectively on June 23, June 11 and June 23 (encl. 23-6). All were assigned to the 83<sup>rd</sup> Precinct Street Narcotics Enforcement Unit on May 21, 2007. Sgt. McCarthy worked in a black unmarked van, #§ 87(2)(g) with PO Jared Santangelo. PO Riso and PO McCready worked as observation officers, and were therefore in plainclothes. The remaining members of the team were all in uniform and additional officers included: PO John Bartek, PO Louis Morselli, PO Edwin Laporte and PO Dilson Abreu. The team's tour was from 8:20a.m. until 6:05a.m.; Sgt. McCarthy worked overtime until 5:17a.m. Sgt. McCarthy's *memo book* noted that he responded to Irving and Putnam Avenues at 1:00pm (encl. 23A-B). At 1:20pm, there were 33 under and he went to the 83<sup>rd</sup> Precinct stationhouse at 1:40pm. PO McCready's *memo book* notes three arrests for unlawful assembly at 1:20p.m (encl. 26A-B). PO *Jared Santangelo's memo book* notes that there were mass arrests, three of which were assigned to him at 1:20pm on May 21, 2007(encl. 25A-B).

Sgt. McCarthy, PO Santangelo, PO Riso and PO McCready provided information that was materially consistent with DI Bambury. Neither officer has a tribal tattoo on his arm. Each officer denied using profanity or being involved in the handcuffing of any perpetrator. PO Santangelo denied saying, "fuck y'all" to § 87(2)(b)

**Additional officer statements**

There are no entries pertaining to this incident in *PO Louis Morselli's memo book* (encl. 27A-B).

§ 87(2)(g)

**SPRINT**

SPRINT #M05857 notes that the 83<sup>rd</sup> Precinct C.O. requested a level-1 mobilization to deal with a disorderly group at 1:09pm (encl. 31). The group was possibly headed towards a train station. At 1:11pm, the group had arrived at Putnam Avenue and Irving Avenue and a request was made for Task Force officers to respond. Eleven minutes later, officers were still requesting additional units to assist with handcuffing. Within the next three minutes, all arrestees were transported to the stationhouse and the level-1 mobilization was terminated. The job was finalized as a 10-92cx33 (33 crime arrests) at 3:16pm.

**Police Documents**

*Online booking sheets* were prepared for 32 individuals that were arrested. Each person was charged with unlawful assembly (encl. 23-30). Officer Michael McCready was assigned to the arrests of § 87(2)(b) and § 87(2)(b) PO Jared Santangelo was assigned to the arrests of § 87(2)(b) and § 87(2)(b) PO Joseph Riso was assigned the arrest for § 87(2)(b) and § 87(2)(b) PO Louis Marselli was assigned with the arrests for § 87(2)(b)

§ 87(2)(b) and § 87(2)(b) § 87(2)(b) and § 87(2)(b)'s arrests were assigned to PO Dilson Abreu. PO Edward Laporte was assigned to the arrest of § 87(2)(b) and § 87(2)(b) PO Edward Paszel was assigned to the arrests of § 87(2)(b) and § 87(2)(b) For each individual, the following narrative appeared:

§ 87(2)(a) 160.50

The *criminal court complaint narratives* for the arrested individuals are almost identical. § 87(2)(a) 160.50

The *83<sup>rd</sup> Precinct command log* noted 33 prisoners that were brought to the desk, including the 20 individuals listed above, at 1:40pm (encl. 32). Additionally, arrest entries were made for the following individuals: § 87(2)(b) and § 87(2)(b) All seven of these individuals are female and were released with summonses. The following individuals were logged in as arrestees, but ultimately released to their parents between 2:10pm and 2:45pm: § 87(2)(b) and § 87(2)(b).

The aforementioned females were released with *summonses for disorderly conduct*, subsection 5 [Penal Law 240.20 (5)]. The subsection asserts that a person is guilty of disorderly conduct when “(s)he obstructs vehicular or pedestrian traffic” (encl. 33).

According to the *83<sup>rd</sup> Precinct prisoner holding pen roster*, the 20 males whose arrests were processed were transported to Brooklyn Central Booking at 1:30am on May 22, 2007 (encl. 34).

Numerous *property vouchers* were made for each individual that was arrested (encl. 35). Shirts bearing the words “§ 87(2)(b) or “R.I.P. § 87(2)(b) were vouchered from the following individuals: § 87(2)(b) and § 87(2)(b).

### Conviction History

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

### Status of Civil Suit

On § 87(2)(b), the City settled the false arrest civil suit brought forward by § 87(2)(b) § 87(2)(b)

### CCRB Histories of the Complainants

§ 87(2)(b) is a complainant in § 87(2)(b)

§ 87(2)(b) was a complainant in § 87(2)(b)

This is the first CCRB complaint filed by § 87(2)(b) and § 87(2)(b) (encl. ).

### CCRB History of the Subject Officer

In his 12-year tenure with the NYPD, Cpt. Scott Henderson has had four allegations substantiated (encl. 5A). The Board substantiated two allegations of abuse of authority (frisk and/or search) against Cpt. Henderson in CCRB9903758. No disposition for these allegations is available. The Board also substantiated an allegation of both discourteous action and discourteous word against him for 200205513.

He was issued a Command Discipline-A by the NYPD. PO Jared Santangelo, a 15-year veteran, had an allegation of physical force substantiated in 200613634. He was found not guilty at trial (encl.5B).

## Conclusions and Recommendations

## Officer Identification

§ 87(2)(g)

§ 87(2)(g) The unusual occurrence report confirms that Cpt. Henderson was the ranking officer that was in charge of coordinating the operation and authorizing the stops and arrests. DI Bambury was not present for a majority of the actions and relied on Cpt. Henderson's description of events before authorizing the arrests. § 87(2)(g)

§ 87(2)(b) claimed that his arresting officer, whom he identified as PO “Santiago” said, “Oh, who the fuck is ya’ll. No one cares about ya’ll.” He described this officer as 5’8”, Hispanic and with short brown hair. PO Santangelo approximates all of these attributes, and more importantly he performed the arrest processing on § 87(2)(b) who claimed that this officer provided his name upon request. § 87(2)(b)

§ 87(2)(g)

## Undisputed Facts

It is undisputed that a group of over thirty individuals congregated in Putnam Park in preparation of attending § 87(2)(b). The individuals were wearing shirts depicting § 87(2)(b) and were taking photographs at the location. They left Putnam Park and walked down Putnam Avenue towards Irving Avenue. § 87(2)(e)

██████████ Cpt. Henderson observed the group congregate in the park and called DI Bambury, who ordered a level-1 mobilization response. Officers arrived at the vicinity of Putnam and Irving Avenues. Several dozen individuals were placed under arrest and transported to the 83<sup>rd</sup> Precinct stationhouse. They were charged with unlawful assembly and disorderly conduct.

## Disputed Facts

§ 87(2)(g)

## Assessment of Evidence

Prior to the date of occurrence, § 87(2)(b) was shot and murdered on § 87(2)(b). § 87(2)(e)

§ 87(2)(e)

On the morning of May 21, 2007, DI Bambury received a call from two persons, § 87(2)(b), § 87(2)(f) § 87(2)(b), who warned that they had heard of retaliatory violence prepared for the day of § 87(2)(b) though he did not specify where this information came from nor did they articulate who the intended assailants and victims were. § 87(2)(g)

§ 87(2)(b) friends and family members originally convened at Putnam Park over the course of approximately an hour, roughly between noon and 1:00p.m. While there, various members spoke about § 87(2)(b) and some members took photographs. Many members of the group wore shirts with remarks and pictures commemorating him, though the substance of these shirts is debated. The civilians contend that the shirts had inoffensive memorial sentiments such as “R.I.P. § 87(2)(b) Cpt. Henderson stated that some of the shirts said, § 87(2)(b) though none of the vouchered shirts said this, and, in fact, the vouchers confirmed that the shirts said, “§ 87(2)(b) “R.I.P. § 87(2)(b) and “§ 87(2)(b)

DI Bambury received calls from two individuals who warned that retaliatory violence would take place. Although the tips did not include specific information, it should be noted that they were provided by two figures in reputable standing, who had previously provided reliable information to DI Bambury regarding the neighborhood’s youth. § 87(2)(g)

With this in mind, DI Bambury instructed Cpt. Henderson to observe the group at Putnam Park.

§ 87(2)(g)

§ 87(2)(b) Cpt. Henderson claimed that the disorderly behavior began once the group exited the park. Particularly, about half of the group walked in the streets, and three individuals jumped on bumpers of cars. Cpt. Henderson, however, could not discern or identify the individuals within the group that committed these acts. He also claimed that those who walked on the sidewalk were acting disorderly by walking abreast and blocking pedestrian traffic. § 87(2)(g)

§ 87(2)(b) The civilians that were interviewed all also claimed that they did not walk in the street at any point in time, in opposition to Cpt. Henderson’s assertion. This version was somewhat corroborated by § 87(2)(b) § 87(2)(b) who was somewhat familiar with a few people in the group from the neighborhood, but was not personally acquainted with anyone. § 87(2)(g) § 87(2)(b) observed the group from § 87(2)(b), just beyond Irving Avenue. From this vantage point, she could have seen down the block to the point where the group exited Putnam Park. § 87(2)(g)

Once Cpt. Henderson radioed for more officers to arrive, multiple units responded within several minutes. These units, and notably DI Bambury, acted on the information provided by Cpt. Henderson, who informed the responding officers that he had observed the group engage in disorderly behavior. Based upon Cpt.



Henderson's observations, the officers determined that the group would be arrested for disorderly conduct. The civilians and officers alleged that everyone was stopped, frisked, searched and handcuffed generally without incident. The officers contended that some civilians fled and ran away, though the civilians denied that anyone did so. Both sides stated that only a few civilians verbally protested the arrests. Some civilians alleged that individual officers used profanity. For example, § 87(2)(b) and § 87(2)(b) all alleged that an officer or officers uttered some variation of "get the fuck against the wall." § 87(2)(g)

§ 87(2)(g)

Once the civilians were secured, the officers placed them in various vehicles and they were transported to the 83<sup>rd</sup> Precinct stationhouse. Each arrestee was debriefed by a member of the detective squad. DI Bambury called the Office of the District Attorney and spoke to ADA Deanna Rodriguez, who, after learning of what transpired, advised the officers to add an unlawful assembly charge. Minors were released to their parents, and all females were released with summonses for disorderly conduct. Each adult male was charged with disorderly conduct and unlawful assembly. § 87(2)(b) alleged that he informed his arrest processing officer, PO Santangelo, that the officers would be punished for making the arrests. PO Santangelo allegedly responded, "Oh, who the fuck is ya'll. No one cares about ya'll." PO Santangelo denied speaking these words. § 87(2)(g)

§ 87(2)(g)

**Allegation A: Officers drew their guns.**

§ 87(2)(g)

§ 87(2)(g)

In this situation, officers were responding to a call for assistance from a supervisor regarding a large disorderly group. § 87(2)(g)

§ 87(2)(g)

**Allegation B: Officers spoke obscenely and rudely to** § 87(2)(b) **and individuals.** § 87(2)(b)

**Allegation C: An officer tightened** § 87(2)(b) **s handcuffs.**

§ 87(2)(g)

§ 87(2)(g)

**Allegation D: Cpt. Scott Henderson authorized the arrest of** § 87(2)(b) **and other individuals.**

Although both Cpt. Henderson and DI Bambury took responsibility for authorizing the arrests at the intersection of Putnam and Irving Avenues, the basis for the arrests was provided by Cpt. Henderson's firsthand observations that he later reported to DI Bambury. Cpt. Henderson authorized the arrests by articulating that he observed each member of the group commit disorderly conduct within his presence. The disorderly conduct was reportedly comprised by individuals in the group blocking vehicular traffic in the street and pedestrian traffic on the sidewalk. Once he observed this group behave in this manner, Cpt. Henderson radioed DI Bambury and called a 10-85 for assistance. Officers responded to the location and

stopped the group, and Cpt. Henderson then informed DI Bambury that all persons on the street committed disorderly conduct.

§ 87(2)(g)

According to PL 240.20, subsection 5, a person is guilty of disorderly conduct when “with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, (s)he obstructs vehicular or pedestrian traffic” (encl. 3). § 87(2)(g)

Recent court decisions have held that a person’s presence on the sidewalk, even amongst other members of a group, is insufficient to constitute disorderly conduct. The Court of Appeals of New York (encl. 2) addressed this in *People v. Jones*<sup>5</sup>. In this case, an individual “was observed ‘standing around’ on a public sidewalk, ‘not moving’ causing numerous pedestrians in the area...to walk around defendant.” In overturning judgment from the New York Criminal Court, the ruling noted: “Here, there was no indication that defendant had the intent to or recklessly created the risk of causing ‘public inconvenience, annoyance or alarm.’ Something more than a mere inconvenience of pedestrians was required to support the charge.”

§ 87(2)(g)

**Allegation E: PO Jared Santangelo spoke obscenely and rudely to § 87(2)(b)**

§ 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

<sup>5</sup> 13 Misc 3d 94, 827 NYS2d 403, 2006 NY.

Reviewed by:

Date: